

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

United States District Court  
Southern District of Texas

**ENTERED**

March 19, 2019

David J. Bradley, Clerk

BRIAN D. KEARNES,

*Plaintiff,*

v.

NANCY A. BERRYHILL, ACTING COMMISSIONER  
OF THE SOCIAL SECURITY ADMINISTRATION,

*Defendant.*


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CIVIL ACTION H-17-2251

**ORDER**

Pending before the court is a memorandum and recommendation (“M&R”) from the Magistrate Judge, who recommends granting a motion for summary judgment filed by plaintiff Brian D. Kearnes (Dkt. 14) and denying a motion for summary judgment filed by defendant Nancy A. Berryhill, Acting Commissioner of the Social Security Administration (the “Commissioner”) (Dkt. 15). Dkt. 17. Neither party filed objections to the M&R. Having reviewed the M&R, motions, related documents, and the applicable law, the court is of the opinion that there is no clear error and that the M&R should be adopted. *See* Fed. R. Civ. P. 72, Advisory Committee Notes (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”). Accordingly, the M&R (Dkt. 17) is ADOPTED IN FULL. The Commissioner’s motion for summary judgment (Dkt. 15) is DENIED, and Kearnes’s motion for summary judgment (Dkt. 14) is GRANTED. This case is REMANDED to the Social Security Administration for further consideration in light of the Magistrate Judge’s M&R. The court will issue a final judgment concurrently with this order.

Signed at Houston, Texas on March 19, 2019.

  
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Gray H. Miller  
Senior United States District Judge